

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

## **I. DISPUTE**

1. a. Whether there should be additional reimbursement of \$2,105.60 for dates of service, 03/09/02 & 03/29/02.
- b. The request was received on 07/22/02.

## **II. EXHIBITS**

1. Requestor, Exhibit I:
  - a. TWCC 60
  - b. HCFA(s)
  - c. EOB/TWCC 62 forms/Medical Audit summary
  - d. Example EOB(s) from other Carriers
  - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II:
  - a. Response to a Request for Dispute Resolution
  - b. HCFA(s)
  - c. Medical Audit summary/EOB/TWCC 62 form
  - d. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 08/26/02. Per Rule 133.307 (g) (4), the carrier representative signed for the copy on 08/27/02. The response from the insurance carrier was received in the Division on 09/05/02. Based on 133.307 (i) the insurance carrier's response is timely.
4. Notice of Additional Information submitted by Requestor is reflected as Exhibit III of the Commission's case file.

### **III. PARTIES' POSITIONS**

1. Requestor: Noted on Table of Disputed Services

“We the provider obtained Pre-Authorization for the ‘purchase’ of the TLSO Brace and Bone growth Stimulator per TWCC Rule 134.600 and the insurance carrier has failed to pay for the D.M.E. at the Fair [sic] and reasonable cost found on the HCFA-1500. We have provided the carrier with documents to substantiate the full cost of the equipment. We are now requesting the remaining balance to be paid In [sic] full with accruing Interest [sic].”

2. Respondent: Letter dated 09/03/02

“The disputed billing involves purchases of a thoracic pad (HCPCS L1060), TLSO bone growth stimulator (L0430), an [sic] new external bone growth stimulator (E0748) and suspenders (E1399). Upon initial receipt of the billing for these purchases, (Carrier) tendered payment equal to a fair and reasonable amount for the durable medical equipment at issue....To date, (Requestor) has failed to provide any information, either to (Carrier) or to the Medical Review Division, that would suggest that the reimbursed amounts are not fair or reasonable, nor has it provided evidence (i.e. actual invoices) to support that full reimbursement is fair and reasonable.”

### **IV. FINDINGS**

1. Based on Commission Rule 133.307(d) (1) (2), the only dates of service eligible for review are 03/09/02 & 03/29/02.
2. This decision is being written based on the documentation that was in the file at the time it was assigned to this Medical Dispute Resolution Officer.
3. Per the Requestor’s Table of Disputed Services, the Requestor billed the Carrier \$6,840.00 for durable medical equipment furnished on the above dates in dispute.
4. Per the Requestor’s Table of Disputed Services, the Carrier paid the Requestor \$4,734.40 for durable medical equipment furnished on the above dates in dispute.
5. Per the Requestor’s Table of Disputed Services, the amount in dispute is \$2,105.60 for durable medical equipment furnished on the above dates in dispute.
6. The Carrier’s EOB(s) deny reimbursement as, “F” and “REDUCED TO FAIR AND REASONABLE”.
7. The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	BILLED	PAID	EOB Denial Code(s)	MARS	REFERENCE	RATIONALE:
03/09/02 03/29/02 03/29/02	L0430 NU E0748 NU E1399	\$1800.00 \$5000.00 \$40.00	\$1215.38 \$3487.02 \$32.00	F F F, M	No MAR No MAR DOP	TWCC Rules Sec. 413.011 (d), 133.307 (g) (3) (D) & (E); MFG; General Instructions (VI), (III) & (VIII) (A); DMGR (IV) and (IX) (C); HCPCS descriptor	<p>The modifier "NU" is not recognized in the Commission's '96 MFG. For this reason, MRD is unable to determine proper reimbursement for CPT codes L0430 NU and E0748 NU in dispute.</p> <p>CPT Code E1399: The law or rules are not specific in the amount of evidence that has to be submitted for a determination of fair and reasonable. The reimbursement data evidence submitted by the provider proved to be insufficient to meet the criteria of Rule 133.307 (g) (3) (D) which states, "if the dispute involves health care for which the commission has not established a maximum allowable reimbursement, documentation that discusses, demonstrates, and justifies that the amount being sought is a fair and reasonable rate of reimbursement in accordance with § 133.1 of this title..." The provider did not submit sufficient documentation that "...discusses, demonstrates, and justifies that the amount being sought is a fair and reasonable rate of reimbursement...." As the requestor, the health care provider has the burden to prove that the fees paid were not fair and reasonable. The provider failed to meet the criteria of Rule 133.307 (g) (3) (D) by submitting insufficient documentation to establish that the payments made by the carrier were not fair and reasonable.</p> <p><b>No additional reimbursement recommended.</b></p>
<b>Totals</b>		\$6840.00	\$4734.40				The Requestor <b>is not</b> entitled to additional reimbursement.

The above Findings and Decision are hereby issued this 26th day of March 2003.

Denise Terry  
Medical Dispute Resolution Officer  
Medical Review Division

DT/dt